

# **TENNESSEE BOARD OF FUNERAL DIRECTORS AND EMBALMERS**

## **BOARD MEETING**

**SEPTEMBER 14, 2004**

President Joe Baumgartel called the meeting to order at 10:08 a.m. in Room 160, Davy Crockett Tower, Nashville, Tennessee.

Board members present were Joe Baumgartel, President, Bob Arrington, Vice President, Danny Cook, Wendy Hellum, Bob Foster, Ralph Buckner, Jr., and Wayne Hinkle.

Staff members present were Robert Gribble, Executive Director, Marilyn Tucker, Legal Counsel, Bill Luna and Jimmy Kesey, Field Representatives, and Michelle Poteete, Administrative Assistant.

### **APPROVAL OF MINUTES:**

**MOTION:** Motion was made by Mr. Cook to approve the minutes of the August 3, 2004, Funeral Directors and Embalmers Board meeting.

The motion was seconded by Mr. Buckner.

Adopted by voice vote.

**APPROVAL OF FUNERAL DIRECTOR AND/OR EMBALMER LICENSES:** Upon motion, based upon the application records, the following applicant was approved for licenses.

**Christopher Scott Moore**  
**Riceville, TN**

**Funeral Director/Embalmer**

**APPROVAL OF FUNERAL ESTABLISHMENT LICENSES:** Upon motion, based upon the application records, the following applicants were approved.

**Memorial Crematory, LLC**  
**Burns, TN**

**New Establishment**

**S & S Chapel Funeral Services**  
**Denmark, TN**

**Reapplication**

A roll call vote was taken for approval of S & S Chapel Funeral Services by the board. It was approved with the stipulation by the Board that Jimmy Kesey, one of the field representatives, will meet with Curtis Dean Williams, the manager, to make sure that everything is running properly at this location.

The vote as recorded:

**FUNERAL DIRECTORS & EMBALMERS BOARD MEETING**

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<b><u>BOARD MEMBERS</u></b>	<b><u>YEA</u></b>	<b><u>NAY</u></b>
JOE BAUMGARTEL	<u>  X  </u>	<u>      </u>
BOB ARRINGTON	<u>      </u>	<u>  X  </u>
DANNY COOK	<u>  X  </u>	<u>      </u>
WENDY HELLUM	<u>  X  </u>	<u>      </u>
BOB FOSTER	<u>      </u>	<u>  X  </u>
RALPH BUCKNER	<u>  X  </u>	<u>      </u>
WAYNE HINKLE	<u>  X  </u>	<u>      </u>

Palmer Funeral Home  
Mason, TN

Ownership Change/Name Change

Bennett-May & Company  
Funeral Home  
Pulaski, TN

Ownership Change/Name Change

Cole & Garrett Funeral Home  
and Cremation Services  
Goodlettsville, TN

Ownership Change/Name Change

Cole & Garrett Funeral Home  
and Cremation Services  
Hendersonville, TN

Ownership Change/Name Change

Cole & Garrett Funeral Home  
and Cremation Services  
White House, TN

Ownership Change/Name Change

Mt. Juliet Funeral Home  
Mount Juliet, TN

Ownership Change/Name Change

Ellis Funeral Home, Inc.  
Nashville, TN

Ownership Change

**LEGAL REPORT:**  
**MARILYNN TUCKER, STAFF ATTORNEY**  
Case Review

(1) #200419679

**Complaint** involves FD/FH that was given a civil penalty in May 2004 for unlicensed activity (FH) and fined \$300.00. The check was returned as unpaid by bank and subsequently many attempts to get penalty payment have failed. FD has stated to director that he will make good on the debt/penalty and as of this date he has not done so.

**Response** concurs with above facts.

**Recommendation:** Increase civil penalty to \$550.00 for failing to respond appropriately/timely to board's consent order and send letter of warning of further disciplinary action, including suspension, if not paid timely.

**MOTION:** Motion was made by Mr. Cook to accept counsel's recommendation.

Seconded by Mr. Arrington.

Adopted by voice vote.

**(2) #200419782**

**Complaint** states that pre-need funds were paid to wrong FH #1 (original one on policy) and not the one actually used, FH #2. In addition, the amount over the cost of the funeral was supposedly not reimbursed to the beneficiary of the policy. Complaint is against insurance company and FH #1.

**Response:** FH #1 states that the funds/proceeds under the policy were sent by them to the FH #2, the one that actually handled arrangements/funeral. The beneficiary was also reimbursed. Letter in file from insurance company states it was their mistake in sending funds to wrong funeral home.

**Recommendation:** Dismiss. FH has resolved matter.

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation.

Seconded by Mr. Hinkle.

Adopted by voice vote.

**(3) #200419719**

**Complaint** states that FH would not return deceased's articles of clothing and keys and appeared to be avoiding the mother when she continued to question on the whereabouts of such.

**Response** states that clothes were returned in a red medical hazardous waste bag and due to a mix-up on who dealt with such, the FD did not discover at first what happened to the keys while investigating the situation. Apparently, the employee who opened the bag discovered the keys in with the soiled clothing and had all of it disposed of as per OSHA regulations. An attorney for mother contacted the FH and the FH agreed to replace the keys or refund a portion of the funeral cost. At time of response, attorney had not informed FH of mother's wishes in the matter.

**Recommendation:** Civil penalty of \$500.00. FD mishandled situation of checking deceased's belongings.

**MOTION:** Motion was made by Mr. Arrington to accept counsel's recommendation.

Seconded by Mr. Hinkle.

Adopted by voice vote.

**(4) #200419725**

**Complaint** alleges FH discriminated against employee because of his sexual orientation and made derogatory remarks about him. Complaint also alleges OSHA violations and that husband, unlicensed, did licensed duties for owner/manager.

**Response** from FD denies ever knowing of employee's sexual orientation or making remarks. Response states that husband parks cars but does not do funeral directing. No response to any alleged OSHA violations. Employee was not fired.

**Recommendation: Dismiss. Problems between employee/owner are not corroborated. No detail given of any OSHA violations.**

**MOTION:** Motion was made by Mr. Hinkle to accept counsel's recommendation.

Seconded by Mr. Arrington.

Adopted by voice vote.

**STAFF REPORT:**  
**ROBERT B. GRIBBLE, EXECUTIVE DIRECTOR**

**1. Closed Establishments:**

McKissack\*Brooks\*Fitzgerald Funeral Directors – Nashville, TN  
B. M. Hayes Mortuary and Company – Memphis, TN

**2. Staffing Update**

Ms. Sandra Cooper, Administrative Assistant, will start on September 16, 2004.

**3. DISCIPLINARY ACTIONS**

The Consent Orders have been signed and the Civil Penalties, unless otherwise indicated, have been paid in full. The Executive Director request the Board's acceptance and approval of the Consent Orders.

**Complaint #200419187**

Action/Penalty: Consent Order with Civil Penalty of \$500.00

Statute/Rule: TCA §62-5-317(a)(4) – Unprofessional Conduct  
(Interment of Incorrect Deceased Human Remains)  
TCA §62-5-313(d)(1) – Permanent Identification Device

**MOTION:** Motion by Mr. Arrington to accept Consent Order with Civil Penalty.

Seconded by Mr. Cook.

Adopted by voice vote.

**Complaint #200418135**

Action/Penalty: Consent Order with Civil Penalty of \$1000.00

The respondent has paid \$100.00 and shall make a payment in the amount of \$300.00 on the first day of October, November, and December 2004.

Statute/Rule: TCA §62-5-317(a)(4) – Unprofessional Conduct  
(Improper Embalming of Deceased Human Remains)

**MOTION:** Motion by Mr. Arrington to accept Consent Order with Civil Penalty.

Seconded by Mr. Hinkle.

Adopted by voice vote.

**Citations Issued by Field Representatives During Inspections of Establishments:**

J. Dan Buckner, Manager  
Gowen-Smith Chapel, Inc. – Shelbyville, TN

Action/Penalty: Consent Order with Civil Penalty of \$900.00

Statute/Rule: TCA §62-5-306(d) 62-5-308(d) – Licenses Available for Inspection  
Rule 0660-6-.02 – Federal Trade Commission Price Requirements

**MOTION:** Motion by Mr. Arrington to accept Consent Order with Civil Penalty.

Seconded by Mr. Buckner.

Adopted by voice vote.

Paul H. Miles, Manager  
Kyker Funeral Home – Kingston, TN

Action/Penalty: Consent Order with Civil Penalty of \$300.00

Statute/Rule: Rule 0660-6-.02 – Federal Trade Commission Price Requirements  
(Alternative containers must be listed on the Casket Price List.)  
(Price ranges must agree.)

**MOTION:** Motion by Mr. Arrington to accept Consent Order with Civil Penalty.

Seconded by Mr. Buckner.

Adopted by voice vote.

**4. Comprehensive Travel Regulations for the State of Tennessee**

Travel may not be undertaken unless it is authorized in advance by proper authority. For claim expenses, travel by Board Members must be authorized in advance. Also, the Assistant Commissioner must be notified in advance if a board member's travel is being paid by an association, or otherwise not paid directly by the state at the time of travel. Again, prior authorization is required for travel regardless of how the trip is funded.

**RESOLUTION HONORING MR. SKIP WHEELER, IMMEDIATE PAST PRESIDENT**

**MOTION:** Motion by Mr. Arrington to adopt resolution.

Seconded by Mr. Cook.

Adopted by voice vote.

**Other Business:**

**MOTION:** Motion was made by Mr. Arrington to adopt letter written by board member Buckner regarding the Board's support of a salary increase for the regulatory board field representatives.

Seconded by Mr. Cook.

Adopted by voice vote.

**MOTION:** Motion was made by Mr. Arrington to adjourn.

Seconded by Mr. Foster

Adopted by voice vote.

There being no further business, the meeting was adjourned at 11:25 A.M.

Respectfully submitted,

Robert B. Gribble  
Executive Director